



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0857]

RIN 1625-AA09

Drawbridge Operation Regulation; St. Johns River, Putnam County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the Buffalo Bluff CSX Railroad Bridge across the St. Johns River, mile 94.5, at Satsuma, Putnam County, FL. The proposed rulemaking would allow the bridge to be remotely monitored and operated from the CSX Railroad Bridge across the Ortega River (McGirts Creek) located at mile 1.1 on the Ortega River. The proposed rule would also allow the draw to remain in the full, open position unless a train is in the circuit.

**DATES:** Comments and related material must reach the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2017-0857 using Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail LT Emily T. Sysko, Sector Jacksonville, Waterways Management Division, U.S. Coast Guard; telephone 904-714-7616, e-mail Emily.T.Sysko@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

**II. Background, Purpose and Legal Basis**

The bridge owner, CSX Transportation, requested the Coast Guard consider allowing remote operation of the Buffalo Bluff CSX Railroad Bridge across the St. Johns River, mile 94.5, at Satsuma, Putnam County, Florida. On April 27, 2017, the Coast Guard published a notice of temporary deviation from drawbridge regulation with request for comments in the Federal Register (82 FR 08886) to test proposed changes. No comments were received during the test period.

The Buffalo Bluff CSX Railroad Bridge across the St. Johns River is a bascule bridge. The bridge is currently manned and maintained in the open position. It has a vertical clearance of 7 feet at mean high water in the closed position and a horizontal clearance of 90 feet.

The Coast Guard is issuing this NPRM under authority 33 U.S.C. 499.

**III. Discussion of Proposed Rule**

The Coast Guard proposes to modify the operating schedule that governs the Buffalo Bluff CSX Railroad Bridge across St. Johns River, mile 94.5, at Satsuma, Putnam County, FL. The

bridge is currently manned and maintained in the open position.

This proposed rule would allow the bridge to be remotely monitored and operated. Visual monitoring of the waterway shall be maintained with the use of cameras and the detection of vessels under the span shall be accomplished with detection sensors. Marine radio communication shall be maintained with mariners near the bridge for the safety of navigation. The remote tender may also be contacted via telephone at (386) 649-8538. The span is normally in the fully open position and will display green lights to indicate that the span is fully open. When a train approaches, the remote tender shall monitor for vessels approaching the bridge. The remote tender shall warn approaching vessels via marine radio, channel 9 VHF of a bridge lowering. Provided the sensors do not detect a vessel under the span, the tender shall initiate the span lowering sequence, which includes the sounding of a horn and the displaying of red lights. The span will remain in the down position for a minimum of eight minutes or for the entire time the approach track circuit is occupied. After the train has cleared the bridge track circuit, the span shall open and the green lights will be displayed. This proposed rule would allow vessels to pass through the bridge while taking into account the reasonable needs of other modes of transportation.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

##### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches

that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The economic impact of this proposed rule is not significant for the following reasons: (1) the draw will remain open for vessel traffic except when trains are passing; and (2) vessels that can transit under the bridge without an opening may do so at anytime.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

We have considered the impact of this proposed rule on small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree

this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

*D. Federalism and Indian Tribal Government*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for

federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review under paragraph L 49 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

## **List of Subjects in 33 CFR Part 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### **PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Amend §117.325 by adding paragraph (c) to read as follows:

#### **§117.325 St. Johns River**

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(c) The draw for the Buffalo Bluff CSX automated Railroad Bridge, St. Johns River, mile 94.5 at Satsuma, Putnam County, FL shall operate as follows:

- (1) The bridge is not tendered locally, but will be operated and monitored by a remote tender;
- (2) The bridge shall have local and mechanical override capabilities over the remote operation;
- (3) Marine radio communication shall be maintained with mariners near the bridge for the safety of navigation. Visual monitoring of the waterway shall be maintained with the use of cameras and the detection of vessels under the span shall be accomplished with detection sensors;
- (4) The span is normally in the fully open position and will display green lights to indicate that the span is fully open;
- (5) When a train approaches, the remote tender shall monitor for vessels approaching the bridge. The remote tender shall warn approaching vessels via marine radio, channel 9 VHF of a bridge lowering. The remote tender may also be contacted via telephone at (386) 649-8538;



- (6) Provided the sensors do not detect a vessel under the span, the tender shall initiate the span lowering sequence, which includes the sounding of a horn and the displaying of red lights. The span will remain in the down position for a minimum of eight minutes or for the entire time the approach track circuit is occupied; and
- (7) After the train has cleared the bridge track circuit, the span shall open and the green lights will be displayed.

Dated: February 20, 2019

Peter J. Brown,  
Rear Admiral, U.S. Coast Guard,  
Commander, Seventh Coast Guard District

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